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PUBLIC UTILITIES
COMMISSION

Docket No. 2009-0048

of

For review and approval of rate increases;
revised rate schedules; and revised rules.

CERTIFICATE OF SERVICE

Attorneys for MOLOKAI PUBLIC
UTILITIES, INC.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application)	
)	
of)	
)	Docket No. 2009-0048
MOLOKAI PUBLIC UTILITIES, INC.)	
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For review and approval of rate increases;)	
revised rate schedules; and revised rules.)	
)	
_____)	

**MOTION FOR LEAVE TO FILE RESPONSE TO
STAND FOR WATER'S RESPONSE TO
PUC-IR-101 DATED SEPTEMBER 22, 2009**

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WATER'S RESPONSE TO PUC-IR-101 DATED SEPTEMBER 22, 2009**

On September 14, 2009, Stand for Water ("SFW") filed its Motion to Intervene in the above-captioned docket concerning the rate increase application filed by Molokai Public Utilities, Inc. ("MPU"), as amended, on June 29, 2009.

On September 15, 2009, the Public Utilities Commission ("Commission") issued a request for information, PUC-IR-101, to SFW and West Molokai Association ("WMA"), seeking a response by September 23, 2009.

On September 21, 2009, MPU filed its Memorandum in Opposition to Stand for Water's Motion to Intervene.

On September 22, 2008, SFW filed its response to PUC-IR-101 (SFW's Response").

I. MOTION FOR LEAVE TO FILE RESPONSE

MPU hereby files its motion for leave to file a response to SFW's Response because SFW, in responding to PUC-IR-101, has included additional information which is non-responsive to the Commission's request and is an attempt by SFW to bootstrap and supplement its intervention request with alleged bases that are beyond the scope of a rate proceeding.

II. MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO FILE RESPONSE

While the Hawaii Administrative Rules do not specifically authorize further responses, the Commission has granted leave to file such responses for good cause shown. See, e.g., In the Matter of Public Utilities Commission, Docket No. 2007-0176, p. 22, fn. 28, Order No. 23677, (September 21, 2007) ("While commission rules do not authorize the submission of replies to motions, the commission in this instance deems Sun Edison's reply to be desirable and, thus, considers it in making its determination."); In the Matter Paradise Mergersub, Inc. et. al., Docket No. 2004-0141, Order No. 21226 (August 6, 2004) (Commission found good cause to allow intervenors to file replies to the applicant's opposition to their intervention); In the Matter of Kealia Water Company Holdings LLC, Docket No. 2003-0246, Order No. 20970 (May 12, 2004) (Commission granted intervenor's request to file reply to applicant's opposition to its intervention).

MPU respectfully submits that there is good cause to grant this request as it will assist the Commission in determining whether to allow SFW to intervene in this proceeding. As discussed above, SFW's Response goes beyond the questions posed by the Commission by alleging additional bases for intervention that were not included in its Motion to Intervene and that go beyond the scope of this ratemaking proceeding. Thus, MPU respectfully requests the opportunity to respond and to correct this error, which MPU contends will assist the Commission in its deliberation on this matter.

III. CONCLUSION AND REQUESTED RELIEF

Based upon the above, MPU respectfully requests that the Commission grant its request for leave to file a response to SFW's Response, and for such other relief as may be required. Pending action on this request, MPU requests that the accompanying "Response

to SFW's Response to PUC-IR-101 Dated September 22, 2009" be lodged with the Commission.

DATED: Honolulu, Hawaii, September 25, 2009.



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**RESPONSE TO STAND FOR WATER'S
RESPONSE TO PUC-IR-101 DATED SEPTEMBER 22, 2009**

On September 14, 2009, Stand For Water ("SFW") filed its Motion to Intervene in the above-captioned docket concerning the rate increase application filed by Molokai Public Utilities, Inc. ("MPU"), as amended, on June 29, 2009.

On September 15, 2009, the Public Utilities Commission ("Commission") issued a request for information, PUC-IR-101, to SFW and West Molokai Association ("WMA"), seeking a response by September 23, 2009.

On September 21, 2009, MPU filed its Memorandum in Opposition to Stand for Water's Motion to Intervene.

On September 22, 2008, SFW filed its response to PUC-IR-101 (SFW's Response").

In light of the allegations set forth in SFW's Response, MPU has filed with the Commission a request to file a Response to SFW's Response. As noted in that request, SFW's responses have gone beyond the questions presented by alleging additional bases for intervention that go beyond the scope of a ratemaking proceeding.

I. RESPONSE TO SFW'S RESPONSE

In PUC-IR-101, the Commission asked SFW to "clearly and specifically explain whether: (1) any members of Stand for Water are also members of WMA, and *vice versa*, and (2) Stand for Water's interests overlap with or are duplicative of WMA's interests, and *vice versa*." In response to the second inquiry, SFW alleges that its interest in protecting the adequacy/availability of the island's water supply differentiates it from WMA for purposes of the right to intervene in this ratemaking proceeding.¹ MPU contends that this interest was not only absent from SFW's Motion to Intervene but is beyond the scope of a ratemaking proceeding.

This interest was not identified in SFW's Motion to Intervene and therefore should not be considered by the Commission as an additional basis for intervention. Through PUC-IR-101, the Commission is seeking clarification of SFW's Motion to Intervene and not allowing SFW another opportunity to make its case. Moreover, although the adequacy of Molokai's water supply is appropriately dealt with in other proceedings (i.e. before the Commission on Water Resources Management),² this issue is irrelevant or not pertinent to the ratemaking issues presented in this docket and would not assist the Commission in developing a sound record. See In the Matter of Laie Water Company, Inc., Docket No. 2006-0502, Order No. 23446 (May 18, 2007). In fact, allowing Movant to participate as an intervenor and raise these types of issues in this proceeding would unreasonably broaden the issues,³ unduly delay the proceeding,⁴ increase costs to MPU, the Consumer

¹ SFW Response at 3.

² See, e.g., HRS Chapter 174C (aka, State Water Code).

³ HAR § 6-61-55(d) states, in relevant part, that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented."

⁴ HAR § 6-61-55(b)(7) requires the party moving to intervene to reference if his participation will "broaden the issues or delay the proceeding."

Advocate and the Commission, and deter the Commission from ensuring the "just, speedy and inexpensive determination"⁵ of this proceeding.⁶

SFW also alleges that instead of focusing on MPL divesting itself of its utilities, the focus should be on "insuring that MPU provides a reliable source of water at reasonable rates to its customers."⁷ In its response, SFW does not elaborate on what it means by "reliable source of water" but if SFW is asserting, as it did in its Motion to Intervene, that reliability is contingent upon MPU's legal status and obligations,⁸ then as discussed above, this issue is beyond the scope of a ratemaking proceeding.

II. CONCLUSION

Based on the foregoing reasons and the authorities cited above, SFW's responses relating to its interest in the protection of the adequacy of Molokai's water resources as well as MPU's reliability are beyond the scope of this ratemaking proceeding. Accordingly, MPU respectfully requests that the Commission disregard these responses in its deliberations on SFW's Motion to Intervene.

DATED: Honolulu, Hawaii, September 25, 2009.



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⁵ See, HAR § 6-61-1 (stating, in relevant part, that the rules should be "liberally construed to secure the just, speedy, and inexpensive determination of every proceeding").

⁶ HRS § 269-16(d) states, in relevant part, that the Commission shall "make every effort to complete its deliberations and issue its decision as expeditiously as possible[.]"

⁷ SFW Response at 4.

⁸ Motion to Intervene at 5.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were duly served on the following party, by having said copies delivered as set forth below:

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DATED: Honolulu, Hawaii, September 25, 2009.



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